

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

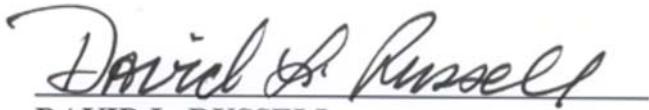
MARK FORESTER, )  
                        )  
Plaintiff,         )  
                        )  
v.                     )      **Case No. CIV-16-967-R**  
                        )  
QES PRESSURE         )  
CONTROL, LLC,         )  
                        )  
Defendant.         )

**ORDER**

Under Fed. R. Civ. P. 41(b), a court may dismiss an action “[f]or failure of the plaintiff to prosecute or to comply with [the Federal Rules] or any order of court . . . .” Though “the plain language of Rule 41(b) suggests that such dismissals may only result from a defendants’s motion . . . courts may dismiss under Rule 41(b) *sua sponte*, at least under certain circumstances.” *Hells Canyon Preservation Counsel v. U.S. Forest Service*, 403 F.3d 683, 689 (9th Cir. 2005) (citing, *e.g.*, *Olsen v. Mapes*, 333 F.3d 1199, 1204 n.3 (10th Cir. 2003)) (“[T]he Rule has long been interpreted to permit courts to dismiss actions *sua sponte* for a plaintiff’s failure to prosecute or comply with the rules of civil procedure or court[] orders.”); *also see Komaromy v. City of Cleveland*, 232 F.R.D. 590, 592–93 (N.D. Oh. Jan. 3, 2006) (dismissing case *sua sponte* for plaintiff’s failure to respond to discovery requests and violation of court’s order). The Court previously ordered Plaintiff to obtain new counsel or enter his appearance within 30 days. [Doc. 31]. Plaintiff took no action. The Court then instructed Plaintiff to show why his case should not be dismissed without prejudice for failure to prosecute. [Doc. 24]. Again, Plaintiff did not respond. In

light of this, along with Plaintiff's failure to produce discoverable information for Defendant and Defendant's resulting inability to comply with the Court's scheduling deadlines, the Court sua sponte dismisses Plaintiff's claims without prejudice pursuant to Fed. R. Civ. P. 41(b).

IT IS SO ORDERED this 27<sup>th</sup> day of March 2017.

  
DAVID L. RUSSELL  
UNITED STATES DISTRICT JUDGE